

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA  
PHILADELPHIA DIVISION**

<b>In re:</b>  <b>Patrick W. Kelly,</b> <b>Debtor.</b>  <b>Stephanie L. Kelly,</b> <b>Aka Stephanie Culp-Kelly</b> <b>Joint Debtor,</b> <b>U.S. BANK TRUST NATIONAL ASSOCIATION,</b> <b>NOT IN ITS INDIVIDUAL CAPACITY BUT</b> <b>SOLELY AS OWNER TRUSTEE FOR RCF 2</b> <b>ACQUISITION TRUST</b>  <b>Movant,</b>  <b>v.</b>  <b>Patrick W. Kelly,</b> <b>Debtor/Respondent.</b>  <b>Stephanie L. Kelly,</b> <b>Joint Debtor/ Respondent.</b>  <b>KENNETH E. WEST,</b> <b>Trustee/Respondent</b>	<b>Bankruptcy No. 23-11790-amc</b>  <b>Chapter 13</b>  <b>Hearing Date: October 17, 2023</b> <b>Hearing Time: 11:00 A.M.</b> <b>Location: Robert N.C. Nix Sr. Federal</b> <b>Courthouse</b> <b>900 Market Street, Suite 202</b> <b>Philadelphia, PA 19107</b>
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**MOTION U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL  
CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR RCF 2 ACQUISITION TRUST,  
TO FORECLOSE ON 543 BRADFORD AVENUE, WARRINGTON PA 18976.**

Secured Creditor, consideration U.S. Bank Trust National Association, Not In Its Individual Capacity But Solely As Owner Trustee For RCF 2 Acquisition Trust Motion for Relief from Automatic Stay, by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor(s), Patrick W. Kelly and Stephanie L. Kelly, filed a voluntary petition pursuant to

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MFR

Chapter 13 of the United States Bankruptcy Code on June 19, 2023.

2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On December 07, 2005, Patrick W. Kelly and Stephanie L. Kelly, executed and delivered a Promissory Note (“Note”) and Mortgage (“Mortgage”) securing payment of the Note in the amount of \$263,000.00 to Accredited Home Lenders, Inc. A California Corporation. A true and correct copy of the Note is attached hereto as Exhibit “A.”
4. The Mortgage was recorded on February 14, 2006 in Book 4870 in Page 2003 of the Public Records of Bucks County, Pennsylvania. A true and correct copy of the Mortgage is attached hereto as Exhibit “B.”
5. The Mortgage was secured as a lien against the Property located at 543 Bradford Avenue, Warrington, Pennsylvania 18976. (“the Property”).
6. The loan was lastly assigned to consideration U.S. Bank Trust National Association, Not In Its Individual Capacity But Solely As Owner Trustee For RCF 2 Acquisition Trust for Relief from Automatic Stay and same was recorded with Bucks County Recorder of Deeds on March 02, 2022, as Instrument Number 2022014999. A true and correct copy of the Assignment of Mortgage is attached hereto as Exhibit “C.”
7. Based upon the Debtor(s)’ Chapter 13 Plan (Docket No. 16), Debtor is responsible for maintaining post-petition payments directly to Secured Creditor. A true and correct copy of the Chapter 13 Plan is attached hereto as Exhibit “D.”
8. Upon review of internal records, Debtor has failed to make the monthly post-petition payments of principal, interest, and escrow to Secured Creditor in the amount of \$2,123.43

which came due from July 1, 2023, to September 1, 2023, respectively.

9. Thus, Debtor(s)' post-petition arrearage totaled the sum of \$6,370.29 with a total of \$0.00 in suspense through September 6, 2023.
10. Upon review of internal records, the current unpaid principal balance due under the loan documents is approximately \$248,540.63. Movant's total claim amount, itemized below, is approximately \$417,520.97 See Exhibit "E."

Principal	\$248,540.63
Interest (From 02/01/22 To 09/06/23)	\$27,288.74
Escrow/Impound Required	\$8,702.29
Accumulative NSF Charges	\$150.00
Recoverable Balance	\$2,587.00
Less Unapplied Funds	(\$0.00)
Total Fees	\$70.75
Deferred Principal Balance	\$130,181.56
Payoff Funds Required	\$417,520.97

11. According to the Debtor(s)' schedules, the value of the property is \$559,920.00. A true and accurate copy of the Debtor(s)' Schedule A/B is attached hereto as Exhibit "G."
12. Under Section 362(d)(1) of the Code, the Court shall grant relief from the automatic stay for "cause" which includes a lack of adequate protection of an interest in property. Sufficient "cause" for relief from the stay under Section 362(d)(1) is established where a debtor has failed to make installment payments or payments due under a court-approved plan, on a secured debt, or where the Debtor(s) have no assets or equity in the Mortgaged Property.
13. As set forth herein, Debtor has defaulted on the secured obligation having failed to make all monthly post-petition installment payments due to Secured Creditor.
14. As a result, cause exists pursuant to 11 U.S.C. § 362(d) of the Code for this Honorable Court to grant relief from the automatic stay to allow Secured Creditor, its successor and/or

assignees to pursue its state court remedies, including the filing of a foreclosure action.

15. Additionally, once the stay is terminated, the Debtor(s) will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).

**WHEREFORE**, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit U.S. Bank Trust National Association, Not In Its Individual Capacity But Solely As Owner Trustee For RCF 2 Acquisition Trust Motion for Relief from Automatic Stay to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), and for any such further relief as this Honorable Court deems just and appropriate.

Date: 09/22/2023

**Robertson, Anschutz, Schneid, Crane  
& Partners, PLLC**

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